

REMARKS

The above-referenced application has been reviewed in light of the Office Action mailed May 11, 2007. By the present amendment, the Applicant has amended claims 12 and 19, has canceled claims 18 and 22, and has added new claims 23-31 for consideration. It is respectfully submitted that the claims now pending in the application do not introduce new subject matter, are fully supported by the application, and are allowable over the cited references. Prompt and favorable consideration of these claims is earnestly sought.

In the Office Action, claims 18 and 22 were rejected under 35 U.S.C. § 112, first paragraph. By the present amendment, the Applicant has canceled claims 18 and 22 without prejudice. Therefore, it is respectfully requested that the rejection of these claims be withdrawn.

In the Office Action, claims 18-21 were rejected under 35 U.S.C. § 112, second paragraph for being indefinite. By the present amendment, claim 18 has been canceled and claim 19 has been amended to correct a minor typographical error. It is respectfully requested that the rejection of claims 19-21 be withdrawn.

In the Office Action, claims 12-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 3,952,742 to Taylor ("Taylor"). The Office Action stated that Taylor discloses a device having a tubular member, a bore, and two wall segments that are longitudinally spaced apart.

Presently, claim 12 recites a surgical device including, *inter alia*, a tubular member having proximal and distal openings defining a bore therethrough and "the elongate tubular member being rigid and the bore forming the working passage for an operating tool." Similarly, claim 19 recites a method including, *inter alia*, the step of inserting the surgical access device and the surgical access device includes, *inter alia*, a tubular member having proximal and distal

openings defining a bore therethrough and "the elongate tubular member being rigid and the bore forming the working passage for an operating tool."

In contrast, Taylor relates to an instrument directed towards cardiac resuscitation. In particular, the device disclosed in Taylor includes a flexible tube having a bore therethrough and a needle disposed therein. The assembled needle and tube is thrust through a patient's chest, driving the tube through the wall of the patient's heart. After removal of the needle, the flexible tube is utilized to introduce medications into the ventricular cavity of the heart. (Column 3, lines 22-20 and lines 55-59). Taylor specifically discloses that "the tube is flexible, and preferably is made of a suitable flexible plastic material, such as a flexible polyethylene." Taylor further states that "flexibility in tube 12 is a desirable feature in minimizing stressing and damage of the heart and chest tissue adjacent it." (Taylor at Column 2, lines 27-32). As such, Taylor fails to disclose or suggest a surgical device including, *inter alia*, a tubular member and the "tubular member being rigid" as recited in claim 12. Further still, Taylor fails to disclose or suggest a method including, *inter alia*, the step of inserting a tubular member and the "tubular member being rigid" as recited in claim 19. Figure 35 of the instant application shows a cannula 210 that includes a series of expandable wall segments and a working passage 212 for an operating tool. There is no suggestion in Taylor of introducing a tool into the heart through the cardiac resuscitation instrument.

Therefore, it is respectfully submitted that Taylor fails to anticipate or suggest the device recited in claim 12 or the method recited in claim 19. Since claims 13-17 depend from claim 12, it is respectfully submitted that these claims are also in condition for allowance. Since claims 20 and 21 depend from claim 19, it is respectfully submitted that these claims are also in condition for allowance.

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The Office Action rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of U.S. Patent No. 4,022,216 to Stevens ("Stevens"). As discussed hereinabove with respect to claim 12, Taylor fails to anticipate or suggest the device recited in claim 12. Adding the balloon recess disclosed in Stevens fails to cure the deficiencies of Taylor. Since claim 15 depends from claim 12, it is respectfully submitted that claim 15 is in condition for allowance.

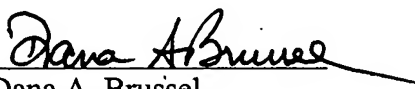
The Applicant has added new claims 23-31. Claims 23 and 24 depend from claim 12, while claim 25 depends from claim 19. As discussed hereinabove, Taylor fails to anticipate or suggest claims 12 and 19. Therefore, it is respectfully submitted that new claims 23-25 are condition for allowance. Further still, new claim 26 recites a surgical device including, *inter alia*, a tubular member having a bore, an inner wall disposed in the bore, an expandable member located in a distal region of the tubular member, and at least one filament, wherein the at least one filament is attached to the tubular member and to the expandable member. It is respectfully submitted that none of the references cited disclose or suggest the surgical device recited in new claim 26. Therefore, it is respectfully submitted that claim 26 is in condition for allowance. Since claims 27-31 depend from claim 26, it is respectfully submitted that these claims are also in condition for allowance.

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In view of the foregoing amendments and remarks, it is respectfully submitted that all claims pending in the application, namely claims 12-17, 19-21, and 23-31, are in condition for allowance. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,

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